

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

Suits Naming Specialty Surgery Center,)
Crossville, PLLC)
_____)

**ANSWER OF SPECIALTY SURGERY CENTER, CROSSVILLE, PLLC,
KENNETH R. LISTER, MD, AND KENNETH LISTER, MD, PC
TO THE FIRST AMENDMENT TO THE MASTER COMPLAINT**

For their Answer to the First Amendment to the Master Complaint, the Defendants Specialty Surgery Center, Crossville, PLLC ("SSC"), Kenneth R. Lister, MD ("Dr. Lister"), and Kenneth Lister, MD, PC ("Dr. Lister's Practice") (collectively, the "Defendants"), state as follows:

PREAMBLE

The Defendants, as part of the agreement on the process for filing answers to the pending complaints against them (memorialized at Dkt. 1447), have contemporaneously answered the Master Complaint. For completeness, the Defendants offer this Answer to the First Amendment to the Master Complaint, despite the stated intention of the First Amendment to the Master Complaint being to add a claim of civil conspiracy against parties other than these Defendants.

ANSWER

COUNT XI-A – CIVIL CONSPIRACY

364. No response to this paragraph is necessary. All previously- or contemporaneously-made responses and defenses are incorporated herein by reference.

365. to 387. The allegations of paragraphs 365 to 387 are not asserted against the Defendants. No response is required. Regardless, the Plaintiffs' civil conspiracy claim against the Defendants was dismissed as a matter of law pursuant to the Court's August 29, 2014, memorandum decision at Dkt. 1360. To the extent any claim of civil conspiracy is made against the Defendants, it is denied, and the August 29, 2014, ruling precludes it.

INCORPORATION BY REFERENCE

The Defendants hereby adopt and incorporate as if stated fully herein the responsive statements, defenses, affirmative defenses, and motions set forth in their Answer to the Master Complaint, Answer to the *Bumgarner* Short Form Complaint, Answer to the *Bumgarner* Complaint, and answer to any other complaint against them. For brevity's sake, the Defendants will not recount these responses and defenses here. Any previously- or contemporaneously-asserted response or defense is hereby incorporated.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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Defendants***

* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 30th day of September, 2014.

/s/ Chris J. Tardio

Chris J. Tardio